

Securities and Exchange Commission

§ 240.15Fh-1

Commission shall by order cancel the registration of such person.

(b) *Revocation.* The Commission, by order, shall censure, place limitations on the activities, functions, or operations of, or revoke the registration of any security-based swap dealer or major security-based swap participant that has registered with the Commission if it makes a finding as specified in Section 15F(1)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-10(1)(2)).

§ 240.15Fb6-1 Associated persons.

Unless otherwise ordered by the Commission, when it files an application to register with the Commission as a security-based swap dealer or major security-based swap participant, a security-based swap dealer or a major security-based swap participant may permit a person that is associated with such security-based swap dealer or major security-based swap participant that is not a natural person and that is subject to statutory disqualification to effect or be involved in effecting security-based swaps on its behalf, provided that the statutory disqualification(s), described in Sections 3(a)(39)(A) through (F) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(39)(A)-(F)), occurred prior to the compliance date of this rule, and provided that it identifies each such associated person on Schedule C of Form SBSE (§249.1600 of this chapter), Form SBSE-A (§249.1600a of this chapter), or Form SBSE-BD (§249.1600b of this chapter), as appropriate.

§ 240.15Fb6-2 Associated person certification.

(a) *Certification.* No registered security-based swap dealer or major security-based swap participant shall act as a security-based swap dealer or major security-based swap participant unless it has certified electronically on Form SBSE-C (Section 249.1600c of this chapter) that it neither knows, nor in the exercise of reasonable care should have known, that any person associated with such security-based swap dealer or major security-based swap participant who effects or is involved in effecting security-based swaps on behalf of the security-based swap dealer or major security-based swap participant

is subject to a statutory disqualification, as described in Sections 3(a)(39)(A) through (F) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(39)(A)-(F)), unless otherwise specifically provided by rule, regulation or order of the Commission.

(b) To support the certification required by paragraph (a) of this section, the security-based swap dealer's or major security-based swap participant's Chief Compliance Officer, or his or her designee, shall review and sign the questionnaire or application for employment, which the security-based swap dealer or major security-based swap participant is required to obtain pursuant to the relevant recordkeeping rule applicable to such security-based swap dealer or major security-based swap participant, executed by each associated person who is a natural person and who effects or is involved in effecting security based swaps on the security-based swap dealer's or major security-based swap participant's behalf. The questionnaire or application shall serve as a basis for a background check of the associated person to verify that the person is not subject to statutory disqualification.

§ 240.15Fh-1 Scope and reliance on representations.

(a) *Scope.* Sections 240.15Fh-1 through 240.15Fh-6, and 240.15Fk-1 are not intended to limit, or restrict, the applicability of other provisions of the federal securities laws, including but not limited to section 17(a) of the Securities Act of 1933 and sections 9 and 10(b) of the Act, and rules and regulations thereunder, or other applicable laws and rules and regulations. Sections 240.15Fh-1 through 240.15Fh-6, and 240.15Fk-1 apply, as relevant, in connection with entering into security-based swaps and continue to apply, as appropriate, over the term of executed security-based swaps. Sections 240.15Fh-3(a) through 240.15Fh-3(f), 240.15Fh-4(b) and 240.15Fh-5 are not applicable to security-based swaps that security-based swap dealers or major security-based swap participants enter into with their majority-owned affiliates. For these purposes the counterparties to a security-based swap are majority-owned affiliates if one